

3:08-CV-4347-BZ

ADR ECF

JS 44 (Rev. 12/07) (and rev 1-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

Carpioux

DEFENDANTS

City of Emeryville

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Alameda

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Alameda

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause: Violation A.D.A. & Brow Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

Sept 16.008

SIGNATURE OF ATTORNEY OF RECORD

Andre Carpioux

FILED

SEP 16 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLANDJFP
\$
ND

C08-04347

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT

OAKLAND CALIFORNIA

CASE #

ADR

C O M P L A I N T

Civil right of violations A.D.A. & Brown Act.

Andre' CARPIAUX in pro per
1264 Ocean Av. EMERYVILLE
Cal. 94608-1148
tel. 510 292 9807
Home and fax 510 601 1382

Andre' CARPIAUX

PLAINTIFF

Vs

City of Emeryville

Redevelopment Agency

et al

Plaintiff Andre' CARPIAUX has been a home owner resident located at 1264 Ocean Av. Emeryville Ca. 94608-1148. Since 1968, Carpiaux has been active in community affairs and shares like all others about the future of his neighborhood, what project is being planned and work to be done or approved by the agency a.k. a. the redevelopment agency and in the process the City Council herein thereafter known as the City of Emeryville "CITY". Carpiaux has always wanted at all time to "PARTICIPATE" in the committee meetings about the fate of a vacant lot who's location area was the property a.k.a. DUTO. Defendant City acquired the property via " eminent domain " and went into ravage at great expenses and further questionable soil remediation into " dirt laundry " health and sanitation. never at no time was there any consideration for the preservation of the existing

GO 44 SEC. W

NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

1. structure to be modified or rehabilitated in part or whole by the PRESERVATION
2. committee if such preservation committee's existence is dedicated into preserving
3. instead of battering destruction and rebuilding whatever on " VIRGIN " dirt !

4. First cause of action; Proper service

5. Plaintiff Carpiaux is a mature adult residing in critical radius of the parcel located
6. at Doyle and Hollis between 61 and 62 str. and is directly impacted by proximity
7. Plaintiff is informed and believe that he deserves more than a mere perfunctory
8. announcement such as posted at local fire station, accordingly not legally served.

9. Second cause of action; Failure to provide adequate hearing devices

10. Plaintiff Carpiaux was informed by word of mouth about a meeting to be held at
11. the Fire Station in a small front lecture room concerning the fate of that parcel.

12. Plaintiff Carpiaux attended the meeting, he complained there was not in place any
13. hearing assisting devices available and that the room was NOT, nor there was any
14. technology available in place to provide assistance to hearing handicapped persons
15. Those hearing handicapped individuals would suffer or be prevented from hearing
16. and therefore not " participate " as well as anyone else about the fate of that land.

17. Because of this, my friend neighbor Mrs Triggvie DERR at 1270 Ocean Av. a
18. resident for 30 years would not attend the meeting, it was useless for her to attend
19. if she could not participate because also of her hearing handicap.

20. Third cause of action; Absence of notice and its content.

1. At no time was Plaintiff notified as required by law, of the proposed use of that
2. parcel of land. A committee was formed but no notice was sent to me or posted
3. by E-mail <cxengineers@yahoo.com> on their list to invite me to participate at
4. the meetings, when and its where about. NO one ever called me to indicate if a
5. meeting was going to take place in a location equip with hearing assisting device
6. At the last (final) meeting at the little Park in open air. There again there was no
7. hearing assisting device available for myself or other hearing impaired person(s).
8. At the end of the meeting in which I could not “ participate “, there was a lots of
9. noise talks by impressive number of police officers. A poster picture was shown
10. by one of the City official dealing with the use of that parcel of land, and one of
11. the community member pointing different features of the what would be the park.
12. It showed the how the PARK would look like when fully grown and developed
13. I then asked one police officer what’s all this show of force, he says, its E.P.D.
14. flexing muscle ready to battle hard “ SEX and the CITY “ (Park) Sex for hire !
15. I received an E-mail posted by “ Jim Martin “ apparently himself a party to the
16. community meeting person of an impending meeting for that parcel. The meeting
17. focused to the parking around that parcel of land. Again checked the room before
18. the meeting and that room was not equipped with the available technology or any
19. other hearing assisting device for me and others to participate. Other attendee left
20. earlier because they could not hear a things or understand what’s going on. When

1. the meeting was over I asked " Ignacio " the person the " City " made in charge
2. about the inadequacy of the room to support the network of the hearing assisting
3. devices technology. He said, I was told not to bother I did not invite you but only
4. half dozen " businesses " BUT he was surprised that about fifty people came to
5. " participate " because parking is an important issue to them as it is to me too.

6. Fourth cause of action . Civil conspiracy.

7. Plaintiff CARPIAUX, has ever since his lost of hearing has asked repeatedly the
8. City to provide accommodation(s) to comply with the A.D.A. for him and other
9. individual(s) to take an active part in the participation of " meet and confer " in
10. any meeting or gathering in which item(s) at issue would relate (impact) to him,
11. his interest, his property and his surrounding properties. Court record shows the
12. City has maliciously engaged in Court proceeding without CARPIAUX's ability
13. to understand and participate adequately resulting in so much frustration, adverse
14. decision(s) not in the interest of Justice. Record shows, the City is continuing that
15. politic of attrition through its numerous meeting negatively affecting Carpiaux to
16. adequately represent his version of the issue(s) or his interest in either Plaintiff
17. or Defendant cause of action. This Park issue is the latest attempt by the City to
18. negatively impact this neighborhood's property value as the City's land value has
19. increased in increment related to its rare location that the slotting for a park is
20. not only grossly inappropriate but contrary to definition. The designated meeting

1. occurred in the gathering of pro-parks effectively working around with a system
2. that shunts, circumvent or by pass any opposition or any alternative to be heard.
3. Considering myself as a victim of the “ ghost “ committee, its mode of operation
4. slick and tricky, it deprived an expose’ of the nature from a different spectrum
5. related to the need of this neighborhood not only now but in the future. A PARK
6. strictly viewed as a common ground is “ passe’ “, it cannot compete in comfort
7. and safety with an immense arrays of programmed fun and entertainment. It is also
8. financially irresponsible and does not respond to the criteria of a sustainability goal.
9. The City has made a realization come true in providing hearing assisting devices to
10. most attendee at City Hall’s City council meetings, EXCEPT its commissioners
11. under various commission have skirted those legal standard set by the A.D.A. laws
12. Plaintiff Carpiaux and others not named in this cause of actions have been victim
13. of back stabbing, blow below the belt, sneak attack all flavored and tailored with
14. not responding “ in a timely fashion “ (not in the interest of justice)

15. Fifth cause of action ; Defendant’s deceptive redundant strategy.

16. Defendant City has for the record “ forced “ issue with unlawful strategic tactic. In
17. preceding case # RG 0312 7369 , BOTH Plaintiff City and Defendant Carpiaux
18. where expecting a “ Final Judgment “ to be adjudicated, BUT the City in its hate
19. and rage to inflict harm to Defendant Carpiaux C U T SHORT to by passing the
20. appeal process on its way to the Court of Appeal, The City assaulted Defendant

1. Carpiaux forcefully breaking chains and locks to ravage his property. For two days
 2. days, the wrecking crew battered and destroyed the custom made scaffolding to
 3. construct the finishing the stainless steel roof as a first engineering project named
 4. “ Quadra head monocoque weather guard “. In the process of throwing away and
 5. looting during those two days of June 10 and 02 – 007, the City also threw away
 6. the “ art history “ of the latest invention # 04–040135 traction epicycloidal brevet
 7. awarded on August 07 - 007. in addition to the electronic P/P/t/ of the solar P.V.
 8. arrays of his solar car and the study motor S.R.P.M. wheel hub – motor “ CARP “

9. Six cause of action; Abuse of Judicial power by the City of Emeryville
 10. Defendant City DOES NOT have the judicial power to override, ignore, usurp
 11. the State and Federal constitutional laws and status concerning the appeal process
 12. in which everyone is entitle to and is part integral of U. S. Jurisprudence. Conduct
 13. such as described above are not only “ pirate “ but it undermine the very intent of
 14. our constitution for equal protection against selective prosecution persecution with
 15. the frame work of democracy and liberty to be free and secure in his own home.

16. Seven cause of action; Excessive abuse of (Sovereign) IMMUNITY
 17. The City is not above the Law in criminal matters. City employees have assaulted
 18. and battered Defendant Carpiaux. The first instance when he protested the raiding
 19. and seizure of his one person rescue submarine. Captain Neal with a fellow Officer
 20. wrestled Carpiaux to the ground, threw him in jail until all stainless steel stock of

1. his engineering projects where thrown out to waste. At a cost of \$ 600,00 for bail
2. the City raided the front of the property which was not part of the attacking plans
3. threw away the submarine's fuel cell engine, a rare earth catalyst, packs of sealed
4. battery and " Ricker " stainless steel rotary pumps. Worse yet, the raiders ignored
5. the review and approval of the commission ordinance 10.1 made up to deal with
6. search and seizure. The second instance when the City " tricked " as a " slick "
7. maneuver, willfully avoided to register the warrant and becoming null and void,
8. invalidated for lawful search and seizure. BUT, becoming by its absence in the
9. registry's record impossible to know its existence thus locked out to any challenge.
10. This legal scam was to prevent lawful appeal to take place to contest the issuance
11. of warrant. The malicious intent of the City was strictly a dishonest premeditated
12. skilful fraudulent scenario of moral turpitude to invade Carpiaux's property to fish
13. for code violations. The legal slick-sick "cunning" maneuver was to prevent lawful
14. APPEAL again in a " timely fashion " committing the Court to be an accomplice
15. and accessory to the crime of FRAUDULENT CONCEALMENT.

16. At the onset of the raid, Captain Neal assaulted and battered Carpiaux by the neck
17. and twisted arm locks. Captain Neal soon thereafter retired conveniently to become
18. unreachable for witness prosecution of the crime of assault and battery. In territory
19. of Emeryville, it is a " RISK " to be an home owner occupy working in HIS own
20. home (Moran Vs City) case dismissed. It is also dangerous, to live and property

7.

1 to be a labor, a mechanic, a technician, an engineer and " INVENTOR " without
 2 the risk of being battered and ravaged repeatedly as if this area was " Palestine "
 3 under Israeli occupation !.The inventor of Civil Rights where themselves blinded,
 4 did overlook professional bias in the making of equal protection amendment !

5 The third instance of criminal immunity aroused on December 05 - 007 when da
 6 Mayor Ken Bukowsky ran over and killed NOVARTI's security guard SMELA
 7 Fellow Councilwomen Nora DAVIS coercing the authorities not to administer any
 8 tests on the Emeryville's Supreme Chief as the " Mayor ". Adjudicating him on
 9 the spot " NOT Guilty " of any crime. The City will pay. Case # 08 388 373
 10 Past 9 Pm; it was dark ! it had been raining; it was wet ! he didn't see the security
 11 guard with his reflectorized garments thus plowing his S.U.V. with only a glowing
 12 low beam ! Supreme Chief's sovereign immunity does not have to drive according
 13 to the weather element and had no reasons to do so. He is NOT NEGLIGENT of
 14 anything. HE does not have to answer to no one because its no body's business.

15 KING CAN DO NO WRONG ! Alleluiah

16 P R A Y E R

17 Plaintiff Carpiaux prays the Court for an enforcement of the A.D.A (American
 18 Disability Act), and the Brown Act in all level of public impacted citizens action
 19 by involvement within proximity, interest and philosophy in the public interest.
 20 Prays for an INJUNCTION to stop the project to move forward and the naming of

8.

1. that parcel yet that may not become a park after all things considered without bias.
 2. A monetary compensation as the Court see fit for the " prejudice " created vacuum
 3. by having a dum-dum " park ". The City is investing tax payer's sweat and blood
 4. for a " Love Boat " instead of a Colloquial Congres to build the millennium state
 5. of the art high tech facility. Such Convention Centre to accommodate, discoveries,
 6. inventions of the emerging nuclear scientific engineering technology in medicine,
 7. molecular biology and computer science animations. The explosive inter-action
 8. discipline such as photonics, nano-technology and photo-voltaic atomic quantum
 9. energy " P.V. a. q. e. " research & development needed for scientific sustainability.
 10. A monetary compensation for all the surrounding property owners impacted by
 11. the PARK as an attractive nuisance (like people's park in Berkeley). A lieu of
 12. illicit rendez-vous ! for drug trafficking and other criminal activities. A deference
 13. to the eroding tax base revenue. The up keep maintenance expenses and added
 14. extra Police cost protections.

15. Date Sept 16-008 Signature Andre' Carpiaux

16. Andre' CARPIAUX Plaintiff

17. in pro per